

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL LEE GRIFFIN, SR.,

Plaintiff,

v.

LACKAWANNA COUNTY PRISON
BOARD, et al.,

Defendants.

Case No. 3:07-CV-01683

(Judge Kosik)

MEMORANDUM AND ORDER

NOW, this 6th day of October, 2008, it appearing to the court that:

(1) Plaintiff, Michael Lee Griffin, Sr., an inmate previously confined at the Lackawanna County Prison, filed this civil rights action pursuant to 42 U.S.C. § 1983 on September 14, 2007;

(2) This matter was assigned to Magistrate Judge Thomas M. Blewitt;

(3) On September 5, 2008, the Magistrate Judge filed a Report and Recommendation in which he recommends that we grant Defendant Jeff Staff's Motion for Summary Judgment due to the untimeliness of the complaint, among other reasons;

(4) Plaintiff avers in his Complaint that Defendant Jeff Staff, a corrections officer and only remaining defendant, told three inmates about Griffin's charge on April 28, 2005, and that those three inmates then assaulted Griffin;

(5) Federal courts borrow the appropriate state statute of limitations to determine whether a § 1983 suit is timely. See Wilson v. Garcia, 471 U.S. 261, 275 (1985). The Pennsylvania statute of limitations for personal injury actions, which applies to a § 1983 suit, is two years. See 42 Pa. Cons. Stat. Ann. § 5524; Smith v. City of Pittsburgh, 764 F.2d 188, 194 (3d Cir. 1985);

(6) Griffin's opportunity to file timely § 1983 complaint expired on or around April 28, 2007;

(7) The defendant pled the statute of limitations as an affirmative defense in his Answer;

(8) No objections were filed to the Magistrate Judge's Report and Recommendation;
AND, IT FURTHER APPEARING THAT:

(9) If no objections are filed to a magistrate judge's report and recommendation, the plaintiff is not statutorily entitled to a *de novo* review of his claims. See 28 U.S.C. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150–53 (1985). Nonetheless, the usual practice of the district court is to give “reasoned consideration” to a magistrate judge’s report prior to adopting it. See Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987).

(10) Having considered the Magistrate Judge’s Report, we agree with the recommendation.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Thomas M. Blewitt dated October 9, 2007 is **ADOPTED**;

(2) The Defendant’s Motion for Summary Judgment is **GRANTED**;

(3) Judgment is hereby entered in favor of Defendants and against Plaintiff; and,

(4) The Clerk of Court is further directed to **CLOSE** and to **FORWARD** a copy of this Memorandum and Order to the Magistrate Judge.

s/Edwin M. Kosik
United States District Judge